

RECORDING REQUESTED BY:  
CCG Ontario, LLC  
3990 Westerly Place, Suite 200  
Newport Beach, California 92660

WHEN RECORDED, MAIL TO:

Department of Toxic Substances Control  
5796 Corporate Avenue  
Cypress, California 90630  
Attention: Branch Chief  
Southern California Cleanup Operations Branch

Recorded in Official Records, County of  
San Bernardino, Larry Walker, Recorder  
59.25

Doc No. 20010384140  
11:26am 08/23/01

205 20314936 02 06

1	2	3	4	5	6	7	8	9	0
PG	FEE	APP	GIMS	PH CPY	CRT CPY	ADD NM	PEN PR	PCOR	
12	6	33			1825				
			5			2	6	4	
NON ST	LN	SVY	CIT-CO	TRANS TAX	DA	CHRG	EXAM		

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

## COVENANT TO RESTRICT USE OF PROPERTY

### ENVIRONMENTAL RESTRICTION

(Re: A portion of the former Kaiser Steel Mill site known as the West End Property)

This Covenant and Agreement ("Covenant") is made by and between CCG Ontario, LLC (the "Covenantor"), the current owner of subject property to be restricted herein, situated in the County of San Bernardino, State of California, described in Exhibit "A", attached hereto and incorporated herein by this reference (the "Property"), and the State of California acting by and through the California Environmental Protection Agency, Department of Toxic Substances Control (the "Department"). Pursuant to Civil Code section 1471(c) and Health and Safety Code Sections 25222.1 and 25355.5 the Department has determined that this Covenant is reasonably necessary to protect present or future human health or safety or the environment as a result of the presence on the land of hazardous materials as defined in Health and Safety Code ("H&SC") section 25260, and as specifically described below.

The Covenantor and the Department, collectively referred to as the "Parties", therefore intend that the use of the Property be restricted as set forth in this Covenant, in order to protect human health, safety and the environment.

## ARTICLE I

### STATEMENT OF FACTS

1.01 The West End Property, totaling approximately 207.96 acres, is more particularly described and depicted in Exhibit "A", attached hereto and incorporated herein by this reference. The Property is a portion of the former Kaiser Steel Mill and is located in the area now generally bounded on the East by the San Sevaine Flood Control Channel, on the West by the Edison Securities Company easement, on the North by Napa Street, and on the South by San Bernardino Avenue in the County of San Bernardino, State of California.

1.02 All or a portion of the West End Property was used by the former Kaiser Steel Corporation for forging and fabrication of steel products, warehousing of steel mill materials and finished products, barrel storage, office space, and for general storage, including storage of damaged or unused equipment. In addition, tenants used portions of the West End Property for various industrial activities. These tenants specifically include the Levand Steel Corporation, which used a portion of the Property (the "Levand Steel Mill Scale Recycling Area" or the "Levand Steel Area") for recycling mill scale and other by-products. The Levand Steel Area encompasses approximately 5 acres in the east central portion of the West End Property as depicted in Exhibit A.

1.03 On August 10, 2000, the Parties entered into a Consent Order pursuant to California Health and Safety Code Sections 25355.5(a)(1)(B) and (C), 25358.3 (a), 58009 and 58010. Section 2.3.6.1 of the Consent Order specified that additional verification sampling was required at the Levand Steel Area. Section 5.2.5.4 of the Consent Order required the Covenantor to complete a Preliminary Endangerment Assessment (PEA) of the Levand Steel Area, and to submit a revised PEA report addendum.

1.04 Prior to Covenantor's purchase of the Property, hazardous substances and hazardous materials as defined in H&S Code Section 25260 had been identified in soil at the Levand Steel Area. Therefore, Covenantor, in compliance with the Consent Order, with applicable law, and under the supervision and authority of the Department, undertook additional investigations, soil removal, and verification sampling, as follows. A site investigation and soil removal action were conducted pursuant to the *Draft Field Sampling Plan, Levand Steel Mill Scale Recycling Area, Soil Sampling, Former Kaiser Steel Mill*, December 2000, as approved by the Department. Following the site investigation and soil removal action, Covenantor completed verification soil sampling pursuant to the *Verification Soil Sampling Report, Levand Steel Mill Scale Recycling Area, Former Kaiser Steel Mill* dated May 2001, which was submitted to the Department. As a result of these investigations, the removal action, and the subsequent verification sampling, it became apparent that remedial goals based on the *Preliminary Endangerment Assessment Manual* (PEA) residential risk scenario were not practical for the Property. Verification sampling demonstrated that substances remaining in soil at the Levand Steel Area include one or more of the following polynuclear aromatic hydrocarbon (PAH) chemicals of potential concern in the following concentration ranges: benzo(a)anthracene (<0.33 to 0.81 mg/kg); benzo(a)pyrene (<0.33 to 0.83 mg/kg); benzo(b)fluoranthene (<0.33 to 1.3 mg/kg); chrysene (<0.33 to 0.99 mg/kg); dibenzo(a,h)anthracene (<0.33 to 1.4 mg/kg); and indeno(1,2,3-cd)pyrene (<0.33 to 0.42 mg/kg). These PAHs are hazardous materials as defined in H&SC 25260. The *Verification Soil Sampling Report* concluded that risks associated with the residual concentrations of PAHs in soil are above PEA residential standards, but are within the discretionary, acceptable range of risks for industrial and commercial land use, and therefore that land uses should be restricted as provided in this Covenant. In May 2001, the Department concurred with the conclusions of the *Verification Soil Sampling Report, Levand Steel Mill Scale Recycling Area, Former Kaiser Steel Mill* and determined that a Letter of No

Further Remedial Action Required could be granted contingent upon the recordation of land use restrictions as provided in this Covenant.

1.05 Covenantor is redeveloping the West End Property from its historical uses associated with the former Kaiser Steel Mill to new industrial uses. Although the chemicals of potential concern have been detected only in the Levand Steel Area, redevelopment activities in general, and mass grading operations in particular, are likely to spread the detected chemicals of concern to other portions of the West End Property. Therefore, in order to protect human health, safety and the environment, Covenantor agrees that it is reasonable and prudent to apply the land use restrictions provided for in this Covenant to the West End Property as a whole.

## ARTICLE II

### DEFINITIONS

2.01 Department. "Department" means the State of California by and through the Department of Toxic Substances Control and includes its successor agencies, if any.

2.02 Owner. "Owner" shall include the Covenantor's successors in interest, and their successors in interest, including heirs and assigns, during his or her ownership of all or any portion of the Property.

2.03 Occupant. "Occupant" means Owners and any person or entity entitled by ownership, leasehold, or other legal relationship to the right to occupy any portion of the Property.

2.04 Covenantor. "Covenantor" shall mean CCG Ontario, LLC.

## ARTICLE III

### GENERAL PROVISIONS

3.01 Restrictions to Run with the Land. This Covenant sets forth protective provisions, covenants, restrictions, and conditions (collectively referred to as "Restrictions"), subject to which the Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. Each and every Restriction: (a) runs with the land in perpetuity pursuant to H&SC sections 25222.1 25355.5(a)(1)(C) and Civil Code section 1471; (b) inures to the benefit of and passes with each and every portion of the Property; (c) shall apply to and bind all subsequent Occupants of the Property; (d) is for the benefit of, and is enforceable by the Department; and (e) is imposed upon the entire Property unless expressly stated as applicable only to a specific portion thereof.

3.02 Binding upon Owners/Occupants. Pursuant to H&SC sections 25222.1, 25355.5(a)(1)(C), this Covenant binds all Owners of the Property, their heirs, successors, and assignees, and the agents, employees, and lessees of the owners, heirs, successors, and assignees. Pursuant to Civil Code section 1471(b), all successive owners of the Property are expressly bound hereby for the benefit of the Department.

3.03 Written Notice of Hazardous Substance Release. The Owner shall, prior to the sale, lease, or rental of the Property, give written notice to the subsequent transferee that a release of hazardous substances has come to be located on or beneath the Property, pursuant to Health and Safety Code section 25359.7.

3.04 Incorporation into Deeds and Leases. The Restrictions set forth herein shall be incorporated by reference in each and all deeds and leases for any portion of the Property.

3.05 Conveyance of Property. The Owner shall provide notice to the Department not later than thirty (30) days after any conveyance of any ownership interest in the Property (excluding

mortgages, liens, and other non-possessory encumbrances). The Department shall not, by reason of this Covenant alone, have authority to approve, disapprove, or otherwise affect a conveyance, except as otherwise provided by law, by administrative order, or by a specific provision of this Covenant.

#### ARTICLE IV

##### RESTRICTIONS

4.01 Prohibited Uses. The Property shall not be used for any of the following purposes:

- (a) A residence, including any mobile home or factory built housing, constructed or installed for use as a permanently-occupied residential human habitation.
- (b) A hospital for humans.
- (c) A public or private school for persons under 21 years of age.
- (d) A day care center for children.

4.02 Access for Department. The Department shall have reasonable right of entry and access to the Property for inspection, monitoring, and other activities consistent with the purposes of this Covenant as deemed necessary by the Department in order to protect the public health or safety, or the environment.

#### ARTICLE V

##### ENFORCEMENT

5.01 Enforcement. Failure of the Owner or Occupant to comply with any of the Restrictions specifically applicable to include grounds for the Department to require that the Owner modify or remove any improvements ("Improvements" herein shall mean all buildings, roads, driveways, and paved parking areas), constructed or placed upon any portion of the Property in violation of the Restrictions. Violation of this Covenant by the Owner or Occupant may result in the imposition of civil

and/or criminal remedies including nuisance or abatement against the Owner or Occupant as provided by law.

## ARTICLE VI

### VARIANCE AND TERMINATION

6.01 Variance. The Owner, or with the Owner's consent, any Occupant, may apply to the Department for a written variance from the provisions of this Covenant. Such application shall be made in accordance with H&SC section 25233.

6.02 Termination. The Owner, or with the Owner's consent, any Occupant, may apply to the Department for a termination of the Restrictions or other terms of this Covenant as they apply to all or any portion of the Property. Such application shall be made in accordance with H&SC section 25234. Unless ended in accordance with the termination paragraph above, by law, or by the Department in the exercise of its discretion, this Covenant shall continue in effect in perpetuity.

## ARTICLE VII

### MISCELLANEOUS

7.01 No Dedication Intended. Nothing set forth in this Covenant shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Property, or any portion thereof to the general public or anyone else for any purpose whatsoever.

7.02 Recordation. The Covenantor shall record this Covenant, with all referenced Exhibits, in the County of San Bernardino within ten (10) days of the Covenantor's receipt of a fully executed original.

7.03 Notices. Whenever any person gives or serves any Notice ("Notice" as used herein includes any demand or other communication with respect to this Covenant), each such Notice shall be

in writing and shall be deemed effective: (1) when delivered, if personally delivered to the person being served or to an officer of a corporate party being served, or (2) three (3) business days after deposit in the mail, if mailed by United States mail, postage paid, certified, return receipt requested:

To Owner: CCG Ontario, LLC  
3990 Westerly Place, Suite 200  
Newport Beach, California 92660  
Attention: Charlie McPhee

To Department: Department of Toxic Substances Control  
5796 Corporate Avenue  
Cypress, California 90630  
Attention: Branch Chief  
Southern California Cleanup Operations Branch

Any party may change its address or the individual to whose attention a Notice is to be sent by giving written Notice in compliance with this paragraph.

7.04 Partial Invalidity. If any portion of the Restrictions or other term set forth herein is determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.

7.05 Statutory References. All statutory references include successor provisions.

IN WITNESS WHEREOF, the Parties execute this Covenant.

Covenantor: CCG Ontario, LLC

By: Charles A. McPhee  
Title: Vice President and CFO

Signature: Charles A. McPhee Date: 8/16/01

Department of Toxic Substances Control

By: Sayareh Amir  
Title: Branch Chief

Signature: Sayareh Amir Date: 8/21/01



STATE OF CALIFORNIA

)

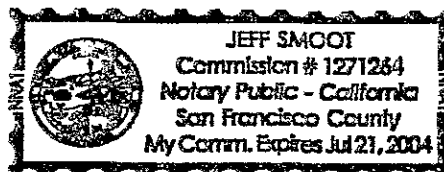
) ss.

COUNTY OF ORANGE

)

On August 16, 2001, before me, Jeff Smoot, a Notary Public,  
personally appeared Charles A. McPhee, personally known to me (or proved to me  
on the basis of satisfactory evidence) to be the person whose name is subscribed to the  
within instrument and acknowledged to me that he executed the same in his authorized  
capacity, and that by his signature on the instrument the person, or the entity upon behalf  
of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Signature

[Handwritten Signature]

(Seal)

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of

ORANGE

SS.

On AUGUST 21, 2001, before me,

Date

JOE SIRKS, NOTARY

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

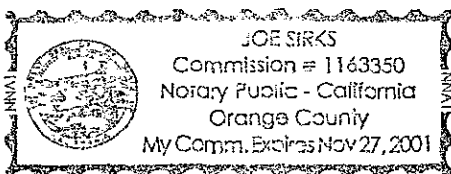
personally appeared SAYALEH AMIRI BRAHAMI

Name(s) of Signer(s)

☐ personally known to me

☒ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Place Notary Seal Above

WITNESS my hand and official seal.

Joe Sirks

Signature of Notary Public

## OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

### Description of Attached Document

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_

Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

### Capacity(ies) Claimed by Signer

Signer's Name: \_\_\_\_\_

☐ Individual

☐ Corporate Officer — Title(s): \_\_\_\_\_

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER

Top of thumb here

**LEGAL DESCRIPTION  
(WEST END PROPERTY)**

All that portion of the west one-half of Section 16, Township 1 South, Range 6 West, San Bernardino Meridian, in the County of San Bernardino, State of California, according to the Official Plat thereof lying southerly of the northerly line of Napa Street as described in deed to the County of San Bernardino, State of California, recorded November 22, 1995 as Document No. 19950404553, Official Records of said County:

EXCEPTING THEREFROM that portion conveyed to Edison Securities Company by deed recorded in Book 2837 page 493 of Official Records of said County.

The land described herein contains approximately 207.96 acres.

All bearings and distances in this description are grid, based on the California Coordinate System (NAD 83), Zone 5. To obtain ground distances, divide the grid distance shown herein by 0.99993670

This real property has been described by me, or under my direction, in conformance with the Professional Land Surveyor's Act.

  
Professional Land Surveyor

May 21, 2001  
Date



J.N. 96-082FE

SCALE: 1"=800'

EASTERLY LINE  
EDISON SECURITIES  
COMPANY PER BK  
2837 PG 493 O.R.

SOUTHERLY LINE  
OF NAPA STREET  
PER DOC. NO.  
19950404553 O.R.

SECTION 16,  
T.1S., R.6W., S.B.M.

CERTIFICATE OF  
COMPLIANCE  
19990498214 O.R.

WEST END PROPERTY  
207.96+ ACRES

TAYLOR FORGE AND  
PIPE WORKS PER BK  
2327, PG 441 O.R.

Levand Steel

ETIWANDA AVENUE

CONTROL CHANNEL

SAN SEVANE FLOOD

SAN BERNARDINO

AVENUE

SOUTH LINE  
SECTION 16

**NOTE:**

BEARINGS AND DISTANCES SHOWN HEREON ARE GRID, BASED  
ON THE CALIFORNIA COORDINATE SYSTEM (NAD 83) ZONE 5.  
TO OBTAIN GROUND DISTANCES DIVIDE THE DISTANCE SHOWN  
BY 0.99993670.

REVISIONS

**ASSOCIATED ENGINEERS, INC.**

3311 E. SHELBY STREET  
ONTARIO, CALIFORNIA 91764  
TEL: (909) 980-1982 \* FAX: (909) 941-0891

PREPARED FOR:

**CCG ONTARIO, LLC**

**WEST END PROPERTY**

MAY 2001